

Planning Commission Date: May 23, 2007

Item No.

5.

## MILPITAS PLANNING COMMISSION AGENDA REPORT

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Category: New Business

Report prepared by: Tiffany Kunsman

Public Hearing: Yes: X No: \_\_\_\_\_

Notices Mailed On: 5/11/07 Published On: 5/10/07 Posted On: 5/11/07

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**TITLE:** SIX-MONTH REVIEW NO. PR2007-1

**Proposal:** A six-month review of Use Permit No. UP2004-42 & "S" Zone Approval Amendment No. SA2004-122. This is for the operation of a 24,000 square foot commercial badminton facility in an existing 48,000 square foot industrial building

**Location:** 1191 Montague Expressway (APN 086-31-060)

**RECOMMENDATION:** Note receipt and file.

**Applicant:** Jim Todt, 4124 Creekpoint Court, Danville, CA 94506

**Property Owner:** Fleming Business Park, LLC c/o WPI, 2101 Woodside Toad, Woodside, CA 94062.

**Previous Action(s):** EIA, "S" Zone Approval, Minor Tentative Map, Use Permit and Amendment

**Environmental Info:** Initial Study and Mitigated Negative Declaration

**General Plan Designation:** Manufacturing and Warehousing

**Present Zoning:** Heavy Industrial with Site and Architectural Combining District "M2-S" District

**Existing Land Use:** Industrial building

**Agenda Sent To:** Applicant/owner as noted above

**Attachments:** Traffic and Parking Analysis dated March 16, 2007, Use Permit No. UP2004-42 & "S" Zone Approval Amendment No. SA2004-122 Staff Report, and Approved Special Conditions.

**PJ No.** 2409

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## **BACKGROUND**

On December 11, 1996 and January 8, 1997, the Planning Commission approved an "S" Zone application and adopted a Mitigated Negative Declaration (EIA No. 672) for the development of 69-acre Fleming Business Park. The approved Business Park consists of ten (10) buildings: four (4) are research and development buildings (bldg. A-D) and six (6) are manufacturing and warehouse buildings (bldg. 1-6).

Subsequent approvals are as follows:

1. A Use Permit for the increase in floor area ratio (FAR).
2. A Minor Tentative Map subdividing the 69-acre Business Park into three (3) parcels (Parcel 1 is 5.38 acres, Parcel 2 is 7.02 acres, and Parcel 3 is 56.16 acres).
3. A Use Permit for a religious facility to occupy three (3) of the vacant research and development building. The buildings are Bldg. B-D located in Parcel 1 and Parcel 2 directly north of Montague Expressway.
4. And a Tentative Map for the condominium conversion of building A into a 21 individual ownership units.

On February 9, 2005 the Planning Commission approved Use Permit No. UP2004-24, "S" Zone Approval Amendment No. SA2004-122, and Environmental Assessment No. EA2004-13. This Use Permit and "S" zone approval was for the 24,000 square foot Smash City Badminton Facility located on Montague Expressway. The approved special conditions (#18) requires that within six (6) months of after issuance of the certificate of occupancy, the applicant shall submit a parking and circulation analysis performed by a traffic consultant to the Planning Division subject to review by the Planning Commission.

## **Site Description**

The project sits is a 24,000 square foot tenant space in an existing 48,000 square foot industrial building (Building 6), located on a 56.16-acre parcel (Parcel 3) in the Fleming Business Park. The building is located on the northeast portion of the business park, directly south of Sinclair Frontage Road terminus and bound to the east by I-680. The surrounding uses include industrial and warehousing buildings occupied by tenants such as McCabes' Quality Foods, Graebel Van Lines, and One Work Place.

## **ANALYSIS**

As required by condition of approval No. 18 for Use Permit No. UP2004-42, "S" Zone Approval Amendment No. SA2004-122, and Environment Assessment No. EA2004-13, the approved project requires a six-month review by the Planning Commission and a Public Hearing. The review consists of the parking and circulation analysis performed by a traffic consultant.

## **Parking and Traffic Circulation**

As part of this six-month review, the applicant submitted a parking and traffic circulation analysis prepared by Hexagon Transportation Consultants in which the parking demand, circulation, and site access were studied.

Smash City Badminton Facility is allotted 55 parking spaces and has an agreement with the adjacent tenant to use the remaining parking spaces during Smash City's peak period of activity. The analysis reveals that during the peak period of activity for Smash City (7:00PM - 10:00PM on Thursday, Friday, and Saturday), there is plenty of parking available for patrons during peak parking periods as shown in the table below.

#### **Parking Analysis**

<b>Day of study during peak period of activity (7:00 p.m. – 10:00 p.m.)</b>	<b>Peak number of vehicles parked on-site (on-site = Smash City parking and adjacent tenant parking)</b>	<b>Percent of parking occupied on-site (on-site = Smash City parking and adjacent tenant parking)</b>
Thursday	79	69%
Friday	51	45%
Saturday	21	18%

The analysis also concludes there are no operational problems with the on-site circulation. The report also notes the following:

- There are tenants on-site with a fleet of semi-trucks and during the hours of observation, the Hexagon Transportation Consultants estimated approximately one truck enters or exits the parking area hourly.
- The patrons of Smash City badminton facility leave plenty of room for the semi-trucks to pass and no patrons' park within the semi-truck parking stalls.
- There are no visible pedestrian circulation issues on site.
- Some patrons of Smash City have parked in the fire lane directly across from the entrance. The conclusion for this action is that the fire lane curb is not painted red, and the fire lane indication on the pavement striping is not clear in this area.

As recommend by the parking and traffic circulation study dated March 23, 2007, the applicant has indicated the Fleming Business Park Management Company, WP Investments, will paint the curb red in their annual maintenance of on-site painting.

#### **RECOMMENDATION**

Close the Public Hearing, note receipt, and file.



## HEXAGON TRANSPORTATION CONSULTANTS, INC.

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March 23, 2007

Ms. Tiffany Kunsman  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, California 95035

**Re: Traffic and Parking Analysis for 1191 Montague Expressway in Milpitas, California**

Dear Ms. Kunsman:

This letter presents the results of a parking analysis done for the Smash City badminton facility at 1191 Montague Expressway in Milpitas, California. The badminton facility is located within the Fleming Business Park and has 55 available parking spaces on-site designated for 1191 Montague Expressway. In addition, there is an arrangement with an adjacent property to use their parking since the peak period of parking demand differs for both establishments. The peak parking demand for the Smash City Badminton Club begins on weekdays after 5:00 PM and the adjacent property's peak parking demand is weekdays between 8:00 AM and 5:00 PM. Therefore, the Smash City Badminton Club uses up to 59 additional spaces from the adjacent tenant after 5:00 PM. Additional overflow parking is available on site from (1) other businesses in the Fleming Business Park (which was less than 10% occupied during the periods of observation) and (2) approximately 100 spaces on-street on Ames Avenue (which is approximately 1,000 feet away). A map of the area is clearly posted at the entrance of the facility to indicate to patrons where they should park. The site driveway and main drive aisle also are shared with the adjacent properties.

Hexagon has undertaken this study to determine any parking or site circulation issues associated with the project site. The parking demand was determined through field surveys made during the peak project occupancy. The site circulation was performed based on field observations. Based on conversations with the project applicant and city staff, it was determined that the peak period of activity at the project site is between 7:00 PM and 10:00 PM on Thursday, Friday, and Saturday.

### **Parking Demand**

On February 15, 16, and 17, 2007 the Smash City badminton facility peak parking demand was observed by survey between 7:00 PM to 10:00 PM and the percent occupied was calculated based upon only the number of spaces marked with "1191 Parking Only" and the spaces that are used from the adjacent tenant. The peak number of vehicles parked on-site during each day of observation was 79 (or 69% occupied) on Thursday, 51 (or 45% occupied) on Friday, and 21 (or 18% occupied) on Saturday (see table). The results of this analysis indicate that there is plenty of parking available for patrons during peak parking periods. The parking occupancy counts were supplemented with a count conducted between 8:00 PM and 9:00 PM on Thursday March 22, 2007. The peak number of parked vehicles was 68 (or 60% occupied). Comparatively, the peak number of parked vehicles on March 22, 2007 is 11 less than the peak observed on February 15, 2007.

### **On-Site Circulation**

An analysis of on-site circulation was conducted on February 15, 16, and 17, 2007 during the peak periods of use. The analysis revealed that there are no operational problems with the on-site circulation. One minor note is that there are tenants on-site with a fleet of semi-trucks. During the observation periods, it is estimated that approximately one semi-truck per hour exits or enters the parking area. However, the patrons of the Smash City badminton facility leave plenty of room for the semi-trucks to pass. In addition, there were no visible pedestrian circulation issues on site.

Field observations revealed that some patrons of 1191 Montague Expressway parked in the fire lane directly across from the entrance. This may occur because the curb is not painted red and the fire lane indication on the pavement striping is not clear in this area. The owner of 1191 Montague Expressway reminds patrons to not park in this area, however it is recommended that the curb be painted red so that it is clear that it is a fire lane. Jim Todt, owner of the Smash City badminton facility has indicated that the Fleming Business Park management company, WP Investments, will paint the curb red in their annual maintenance of on-site painting. The parking diagram posted on site also reminds patrons to not park in the semi-truck stalls adjacent to the facility parking. There were no patrons that parked in the semi-truck stalls during the observation periods.

## Smash City Parking Occupancy

Time	Thursday (2/15/07)		Friday (2/16/07)		Saturday (2/17/07)		Thursday (3/22/07)	
	Smash City		Smash City		Smash City		Smash City	
	Vehicles Parked On-Site	Percent Occupied	Vehicles Parked On-Site	Percent Occupied	Vehicles Parked On-Site	Percent Occupied	Vehicles Parked On-Site	Percent Occupied
7:00 PM	30	26%	41	36%	21	18%		
7:15 PM	40	35%	37	32%	20	18%		
7:30 PM	42	37%	40	35%	16	14%		
7:45 PM	60	53%	43	38%	15	13%		
8:00 PM	69	61%	42	37%	13	11%	61	54%
8:15 PM	78	68%	51	45%	11	10%	68	60%
8:30 PM	79	69%	50	44%	10	9%	66	58%
8:45 PM	78	68%	49	43%	10	9%	67	59%
9:00 PM	77	68%	46	40%	10	9%	60	53%
9:15 PM	76	67%	47	41%	9	8%		
9:30 PM	74	65%	45	39%	7	6%		
9:45 PM	69	61%	39	34%	6	5%		
10:00 PM	67	59%	32	28%	5	4%		

Note: The total number of parking stalls available on-site for Smash City patrons are 114.  
 (55 spaces designated for Smash City and 59 spaces used from another tenant)

## Conclusion

The parking demand and circulation were studied for the Smash City badminton facility at 1191 Montague Expressway in Milpitas, California. The results of the analysis revealed that there are generally no parking or circulation problems. However, it is recommended that (1) the curbing be painted red in the fire lane across from the entrance to the site and (2) the owner continues to remind patrons to not park in the fire lane or the adjacent semi-truck stalls.

Ms. Tiffany Kunsman  
March 23, 2007  
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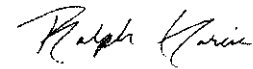
This concludes our analysis of the Smash City badminton facility at 1191 Montague Expressway. If you have any questions regarding the results or would like to discuss this further, please do not hesitate to call. Thank you.

Sincerely,

HEXAGON TRANSPORTATION CONSULTANTS, INC.



Brett Wolinski P.E.  
Principal



Ralph Garcia  
Engineer II

Planning Commission Date: February 9, 2005

Item No.

**MILPITAS PLANNING COMMISSION AGENDA REPORT**

Category: Public Hearing

Report prepared by: Kim Duncan

Public Hearing: Yes: ☒ No: ☐

Notices Mailed On: 1/28/05

Published On: 1/2705

Posted On: 1/28/05

**TITLE:** USE PERMIT NO. UP2004-42, 'S' ZONE APPROVAL  
AMENDMENT NO. SA2004-122, ENVIRONMENTAL  
ASSESSMENT NO. EA2004-13

**Proposal:** A request for approval to operate a 24,000 square foot badminton facility with ancillary fitness room and retail shop, minor exterior building and site modifications, and the adoption of a mitigated negative declaration, located in the Heavy Industrial (M2) zoning district.

**Location:** 1191 Montague Expressway (APN 86-31-060)

**RECOMMENDATION:** Approval with conditions

**Applicant:** Jim Todt, 4124 Creekpoint Court, Danville, CA 94506

**Property Owner:** Fleming Business Park, LLC c/o WPI, 2101 Woodside Road, Woodside, CA 94062.

**Previous Action(s):** EIA, "S" Zone Approval, Minor Tentative Map, Use Permit and Amendment

**Environmental Info:** Initial Study and Mitigated Negative Declaration

**General Plan Designation:** Manufacturing and Warehousing

**Present Zoning:** Heavy Industrial

**Existing Land Use:** Industrial building

**Agenda Sent To:** Applicant and owner (both noted above)

Attachments: Project plans, schedule of activities, initial study and mitigated negative declaration, mitigation monitoring program, risk assessment excerpts

PJ No. 2409

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## BACKGROUND

On December 11, 1996 and January 8, 1997, the Planning Commission approved an "S" Zone application and adopted a Mitigated Negative Declaration (EIA No. 672) for development of the 69-acre Fleming Business Park in two (2) phases. The approved development included the addition of four (4) research and development (Buildings A-D) and six (6) manufacturing/warehouse (Buildings 1-6) buildings on site.

Subsequent approvals include a use permit approval to increase the industrial park floor area ratio (FAR) and a Minor Tentative Map to subdivide the parcel into three (3) parcels, Parcel 1 (5.38 acres), Parcel 2 (7.02 acres), and Parcel 3 (56.16 acres). More recently, the Planning Commission approved a use permit for a religious facility to occupy 3 vacant research and development buildings (Buildings B-D) located on Parcel 1 and Parcel 2 directly north of Montague Expressway and a tentative map for the condominium conversion of building A into 21 individual ownership units.

## Site Description

The project site is a 24,000 square foot tenant space in an existing 48,000 square foot industrial building (Building 6), located on a 56.16-acre parcel (Parcel 3) in the Fleming Business Park. The building is located on the northeast portion of the business park, directly south of Sinclair Frontage Road terminus, bound to the east by I-680. Uses surrounding the project site include industrial and warehouse buildings occupied by tenants such as McCabes' Quality Foods, Graebel Van Lines and One Work Place.



1191 Montague Expressway



## THE APPLICATION

The application is submitted pursuant to Section 31.03-5 ("Commercial athletic facilities...such as but not limited to tennis, handball, racquetball, etc." as a conditional use within the Heavy Industrial District), Section 57.00 (Conditional Uses Permitted by the Commission), Section 53.06 (Parking-Uses Not Specified), and Section 42.00 (Site and Architectural Review) of the Milpitas Zoning Ordinance.

The applicant requests to operate a commercial badminton facility in an existing 24,000 square foot tenant space located in a multi-tenant building in the Fleming Business Park. As depicted on the floor plan, the facility includes twelve (12) badminton courts for lessons and competition events, fitness room with workout equipment, ancillary retail shop, lounge/waiting area, offices, storage area, and restrooms. The proposed hours of operation are Sunday through Saturday, 9:00 a.m. to 11:00 p.m. with lessons offered weekdays, 4:00 p.m. to 11:00 p.m., and all day on weekends. In addition, badminton tournament events are proposed four (4) weekends per year. Proposed exterior modifications include 10 new parking spaces south of the building, wooden stair, extension of existing walkway, new entryway door, and rooftop mechanical equipment.

## ISSUES

### Hazardous Materials

When an applicant with customers that could be sensitive receptors (children and elderly) proposes to locate in an industrial area of the city, there is always the concern about the appropriateness/compatibility of the two uses (badminton facility and industrial) next to each other. Industrial users often use and store hazardous materials as part of their daily business and there is always a chance that an accident could occur which could release, spill or discharge hazardous materials into the environment.

A Risk Assessment was prepared for the original Fleming Business Park development in November 18, 1996. According to the Risk Assessment, chlorine (Jones Chemical) and anhydrous ammonia (McCabe's Foods) were the two most significant toxic substances generated from nearby industrial properties at the time of development. Subsequently, the Risk Assessment was updated and reviewed (December 22, 2003) for a religious facility application (Korean First Baptist Church) in which ammonia release (McCabe's) was identified as the only potentially significant toxic substance of concern identified in the area (Jones Chemical no longer conducts operations near the project site).

According to an updated Risk Assessment, submitted by Enviro Safetech (January 10, 2005), ammonia release remains the only potentially significant toxic substance of concern identified in the area. To assess the potential effects of these chemicals, the National Institute of Occupational Health and Safety (NIOSH) has established an evaluation criteria known as the "Immediately Dangerous to Life and Health" (IDLH) level. The IDLH is the concentration of an airborne contaminant that represents the maximum level from which one could escape within 30 minutes without any irreversible health effects.

Worst-case scenario modeling of anhydrous ammonia from McCabe's Foods revealed that an instantaneous release of gaseous ammonia to the outdoors could exceed the IDLH concentration (200 ppm) outside the building to a maximum threat zone of 1.6 miles. The IDLH levels are based on a healthy adult, therefore it can then be assumed that the health risks are increased when applied to children and the elderly, even though the specifics of these health risks are unknown because they have not been analyzed.

The updated Risk Assessment determined potential impacts from these off-site risks can be reduced to a non-significant level by a shelter-in-place program, ammonia air monitoring and an annually updated Emergency Action Plan. Mitigation measures originally implemented for the Fleming Business Park (1996) include an airborne chemical monitoring system (sensors), with detection and response/notification capabilities, in-place notification communication system, air flow/exchange ventilation systems, risk reduction plan, Site Emergency Preparedness Plan (describing evacuation/shelter-in-place program) and annual updates of the Emergency Action Plan. The project applicant, as a condition of approval, will be required to implement the previously approved mitigation measures for the Fleming Business Park specific to the badminton facility use and annually update the Emergency Action Plan for Fire Department review and approval.

The *Fire Department recommends* the following mitigations measures that will adequately notify the occupants of the facility of the potential hazards:

- Installation of a chemical monitoring system with chemical sensors for the specific chemicals identified in the risk assessment (i.e. chlorine and hydrogen bromide) that alerts Fire dispatch and occupants of the site and provides direction on emergency procedures via a recorded message;
- Manual and automatic shutoff capabilities of the building ventilation system;
- Installation of a windsock to determine the wind direction in case of a gaseous release;
- Installation of warning notification signs posted at all building entrances to advise occupants of potential hazards;
- Implementation of a parental notification process for all children who use the facility for which records must be kept and reviewed by the Fire Department on an annual basis;
- Implementation of an Emergency Action Plan including shelter in place, training and drills with the Fire Department; and
- Annual updates of both the risk assessment and the Emergency Action Plan.

The implementation of these mitigation measures would assist in adequately informing all occupants using or visiting the facility of the potential risks associated with the hazardous materials in the area and would provide proper safety procedures in the event of an accident, thus reducing the impact to less than significant.

### Parking/Circulation

Off-street parking requirement calculations for this project are based on Milpitas Zoning Ordinance Sections 53.23-Parking Schedule, 53.05-Mixed Occupancies (which provides for mixed use occupancy off street parking to be calculated per the different uses), and 53.06-Uses Not Specified (which allows the Planning Commission to determine off-street parking requirements based upon the experience of other cities).

The Milpitas zoning ordinance Parking requirements (Section 53) do not specify parking requirements for badminton facilities or lounge area uses. However, the City of San Jose specifies parking requirements for lounge areas at a ratio of 1 space per 200 square feet and tennis clubs at 1 space per 500 square feet of recreation area. Given the similar nature of a tennis club to a badminton facility, staff is confident the parking requirements would be similar. Based on Section 53 parking requirements in the zoning ordinance and City of San Jose for tennis club and lounge area uses, the parking requirements for this proposed badminton facility are shown in Table 1 below.

**Table 1. Smash City Parking Requirements**

Use	Proposed	Parking Standard	Required Parking
Badminton courts	20,100 sq. ft	1/500 sq. ft. *	40
Lounge	1560 sq ft	1/200 sq ft *	8
Retail shop	730 sq ft	1/200 sq ft	3
Fitness room	820 sq ft	3.5 per 1,000 sq ft	3
Office	240 sq ft	1/200 sq ft	1
Storage	1320 sq ft	1/1500 sq ft	1
Total required			56

\* Based on City of San Jose parking requirement for similar use

When the Fleming Business Park was developed, parking for building 6 was based on 1 space per 1,500 square feet for warehousing and 1 space per 350 square feet for offices, requiring a total of 51 parking spaces. The project applicant is proposing to occupy 24,000 square feet (½ of the building), therefore 25 of the 51 required parking spaces are allocated for each half of the building. In addition, according to planning files, 121 parking spaces were provided for building 6, creating a surplus of 70 parking spaces (35 for each portion of the building) on site. Based on the 25 required and 35 excess parking spaces provided for the project site, there are 60 total

parking spaces allocated for this portion of building 6, therefore staff is confident there is sufficient parking to accommodate the proposed badminton facility.

The project site is located on a parcel within an existing heavy industrial zoning district and adjacent to businesses that utilize trucking operations for transport. Primary access to Fleming Business Park is from Montague Expressway with secondary access from the Sinclair Frontage Road terminus. The existing driveway off Montague Expressway is centrally located between two adjacent parcels and provides two-way circulation and access to all parking areas, as well as the interior and perimeter parcels.

While the commercial badminton facility would be sharing a parking lot with warehouses that generate truck traffic, according to a traffic study conducted for the Korean Church, there is very little truck traffic on weekends when the badminton facility would be busiest. In addition, the heaviest periods of truck traffic in the area are primarily during the daytime, averaging 3 to 5 trucks per hour on weekdays, when area industrial businesses are in operation. However, it is anticipated the peak hours of operation of the proposed project are primarily weekday afternoon and evenings, as well as all day on weekends. It is anticipated that the hours of operation of the proposed project will not substantially increase traffic in relation to the existing traffic load and, therefore, the impact of a badminton facility patron's exposure to trucking traffic would be less than significant.

### **Solid Waste/Recycling**

The project site was developed with an approximately 280 square foot trash enclosure located adjacent to the south side of the building and the applicant is not proposing any new garbage facilities. It is expected that the new use would not generate higher levels of garbage than the previous research and development use, therefore it is anticipated the existing waste/recycling facilities would be adequate to serve the new use. However, as a condition of approval, **Engineering staff recommends** the applicant submit evidence to the City that minimum refuse and recycling services have been subscribed for the project.

### **Exterior Modifications**

Proposed exterior modifications include the addition of 10 new parking spaces, stairway, entry door, walkway, and rooftop mechanical equipment. The new parking spaces would consist of seven (7) new spaces located in the existing loading dock area and three (3) new spaces adjacent to existing parking south of the building. According to the plans submitted by the applicant, the parking stall dimensions would meet zoning ordinance development standards for parking space dimensions. In addition, the plans indicate the proposed rooftop exhaust fan would not exceed the existing parapet height, therefore the new rooftop equipment would not be visible from any views.

The applicant is also proposing a new entry door at the front of the building (west elevation) and a new wooden stair (south elevation) for access to the walkway extension located at the rear of the building. According to the plans submitted by the applicant, no materials or colors are called out for the proposed door or stairway. Staff has concerns regarding the use of wood for the stairs

in an industrial park with surrounding buildings constructed of concrete and metal. Therefore **staff recommends**, as a condition of approval, the applicant submit plans that indicate the door and stairway are constructed of materials and colors that match the existing and surrounding industrial buildings.

### Use Permit Findings

Any approval of a Use Permit or Use Permit Amendment requires that the Planning Commission make the following findings:

1. The proposed use is consistent with the Milpitas General Plan.
2. The proposed use is consistent with the Milpitas Zoning Ordinance.
3. The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

The following sections explain how the proposed project, as conditioned, meets these findings.

### Conformance with the General Plan

The proposed use does not conflict with any General Plan policy and is consistent with Guiding Principle 2.d-G-2, which encourages development of adequate civic, recreation and cultural centers in locations for the best service to the community and in ways that will protect and promote community beauty and growth. While the site is located amidst industrial uses, on a larger scale, the location provides convenient access to badminton facility members who live both in the City and in nearby communities. The project is also consistent with Implementing Policy 2.a-I-6, which endeavors to maintain a balanced economic base that can resist downturns in any one economic sector.

### Conformance with the Zoning Ordinance

The proposed badminton facility is consistent with the Heavy Industrial (M2) zoning district and Section 57.00 of the Milpitas Zoning Ordinance, which conditionally permits commercial athletic facilities following review and approval by the Planning Commission. In addition, as a condition of approval, the applicant will be required to implement mitigation measures that include an evacuation/shelter-in-place procedure, Emergency Action Plan and annual reviews by the Fire Department. Therefore, the proposed project is consistent with Section 57.00 of the Milpitas Zoning Ordinance in terms of promoting public health, safety, peace, morals, comfort and welfare.

### Conformance with 'S' Zone Combining District

As conditioned, the project complies with the 'S' Zone Combining District in that exterior modifications to the building and parking spaces are compatible and aesthetically harmonious

2.

with the Heavy Industrial business park. Staff concludes that no adverse visual impacts would result from the proposed project.

### **Long Term Impacts**

The proposed project is for the operation of a commercial badminton facility located in an existing Heavy Industrial (M2) zoning district. As conditioned, the applicant will be responsible for annually updating and modifying the required Emergency Action Plan for Fire Department approval as new tenants and hazardous materials are introduced into the industrial business park. Therefore, the proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare. In addition, the proposed project, as conditioned, will not require more restrictive standards for future tenants of the business park because of the badminton facility.

### **Conformance with CEQA**

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The commenting period began on January 20, 2005 and will close on February 8, 2005. Potential environmental impacts from the project include exposure to potential hazardous materials, which is discussed in detail in the above section titled Hazardous Materials. However, with the proposed mitigation measures, it is expected that the impacts will be reduced to a less than significant level. Further discussion of other potential impacts and mitigation measures are included in the attached Environmental Assessment No. EA2004-13.

At the time of preparation of the staff report, no comments were received. Any additional comments received will be presented at the Planning Commission hearing. Staff recommends adoption of the Mitigated Negative Declaration with the mitigation measures incorporated therein.

### **Neighborhood/Community Impact**

As conditioned, the proposed badminton facility is not anticipated to create a negative community impact. The proposed use would not generate any new odors or noise above what exists, would serve local area residents, employees in the surrounding industrial park, as well as those in the outlying areas. In addition, the proposed project, as conditioned, is not anticipated to create any significant parking, traffic, odor, noise, or other adverse impacts on the community.

Staff extended the public hearing notification radius from 300 feet to 1,000 feet. This notification included all property owners and residential renters within 1,000 feet of the subject site. At the time of the preparation of the staff report, no inquiries or concerns were received by staff. Any comments received will be presented at the Planning Commission hearing.

## RECOMMENDATION

Close the Public Hearing. Adopt Initial Study and Mitigated Negative Declaration No. EA2004-13 and approve Use Permit No. UP2004-42 and 'S' Zone Approval-Amendment SA2004-122 based on the Findings and subject to the Recommended Special Conditions below.

## FINDINGS

1. The Initial Study and Mitigated Negative Declaration (EIA No. EA2004-13) prepared for this project represents the independent review of the City of Milpitas Planning Staff and Planning Commission.
2. The proposed project is consistent with the Milpitas General Plan in that it is consistent with Guiding Principle 2.d-G-2 which provides for development of civic, recreational and cultural centers in locations that will serve both the immediate and larger neighborhood (City wide).
3. The proposed badminton facility is consistent with the Heavy Industrial (M2) zoning district, which conditionally permits commercial athletic facilities following review and approval by the Planning Commission. In addition, as a condition of approval, the applicant will be required to implement mitigation measures that include an evacuation/shelter-in-place, Emergency Action Plan and annual reviews by the Fire Department. Therefore, the proposed project is consistent with Section 57.00 of the Milpitas Zoning Ordinance in terms of promoting public health, safety, peace, morals, comfort and welfare.
4. The proposed project, as conditioned, would not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare. As conditioned, the project is not anticipated to result in a negative community impact as the badminton facility would not generate any new odors, noise or traffic, and would provide adequate parking.
5. As conditioned, the project *complies* with the "S" Zone Combining District in that modifications to the site and building exterior are compatible and aesthetically harmonious with the existing building and no adverse visual impact would result from the proposed project.

## SPECIAL CONDITIONS

1. This Use Permit No. UP20034-42 is for a 24,000 square foot commercial badminton facility to operate in an existing industrial building and includes an ancillary fitness area and retail shop in accordance with the plans approved on February 9, 2005 and as modified by the conditions within this approval. Any modification to the project as proposed will require a use permit amendment by the Planning Commission (P)

2. The 'S' Zone Approval Amendment No. SA2004-122 is for exterior building and site modifications associated with the use, including 10 new parking spaces, in accordance with the plans approved on February 9, 2005 and as modified by the conditions within this approval. (P)
3. All roof-top equipment shall be shielded from view in a manner to the approval of the Planning Commission or its designee as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code. Prior to the issuance of any permit for any roof-top equipment which projects above the height of any existing parapet wall or screen, detailed architectural plans for the screening of this equipment and/or a line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and approved as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code, in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles.
4. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations, and in conformance with the approved plans. (P)
5. This use permit approval is not for any child care center as defined in Section 2.25-1 of the Milpitas Zoning Ordinance. (P)
6. This approval does not include any signs. Any new signage shall adhere to the Sign Ordinance and shall be submitted to the Planning Division for review and approval. (P)
7. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recover of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
8. If at the time of application for permit there is a project job account balance due to the City for recover of review fees, review of permits will not be initiated until the balance is paid in full. (P)
9. Any occupancy of the tenant space shall not occur until all conditions of approval have been satisfied and verified by the City. (P)
10. Applicant/property owner shall be responsible for the trash collection and recycling services account. Prior to occupancy permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services (E):
  - A. Maintain an adequate level of service for trash collection.
  - B. Maintain an adequate level of recycling collection.After the applicant has started its business, the applicant shall contact BFI commercial representative to review the adequacy of the solid waste level of services. If services are



determined to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264.

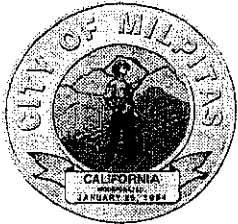
11. Prior to building permit issuance, the tenant improvement plans shall indicate an airborne chemical monitoring system (sensors), with detection and response/notification capabilities that shall be designed and installed by the applicant. The sensors shall be specific for the gases identified in the Risk Assessment as having the potential of impacting the site (ammonia). Notification ~~shall alert~~ Fire dispatch of an alarm and also provide in-place communication, both inside and outside of the building, to alert occupants of an emergency, via pre-recorded message, and ~~shall direct~~ them on emergency procedures to follow. The sensors and alarm systems shall be maintained in an operable manner and tested on an annual basis. Maintenance and testing shall be performed by a qualified person and records be made available to the Fire Department for inspection upon request. As part of the monitoring system, building ventilation shall have manual and automatic shutoff capabilities with the control device located per Fire Department direction. (F, Mitigation Measure VIIb-1)
12. Prior to building permit issuance, the tenant improvement plans shall indicate the location of a windsock or other approved wind/weather-monitoring device on site to aid in determining wind direction in the event of a nearby hazardous material release. (P,F, Mitigation Measure VIIb-2)
13. Prior to building permit issuance, the tenant improvement plans shall indicate the location of warning notification signs posted at all entrances to the building. The signs shall serve to advise building occupants of potential hazards within the surrounding industrial area. Proposed verbiage shall be submitted for Fire Department review. Signs may be required in multiple languages, as appropriate for occupants of the building. (P,F Mitigation Measure VIIb-3)
14. Prior to certificate of occupancy issuance, the applicant shall submit an Emergency Action Plan (EAP) to the Milpitas Fire Department for approval, which recognizes the nature of the risk at the project site in the surrounding industrial area. The EAP shall include identification of key personnel in the implementation of the plan, training documentation, written evacuation plan showing evacuation routes, shelter in-place and assembly areas, and location of emergency equipment. (F, Mitigation Measure VIIb-4)
15. Prior to certificate of occupancy issuance and before implementing the EAP, the employer shall designate and train a sufficient number of persons to assist in the safe and orderly emergency evacuation of employees. The employer shall advise each employee of his/her responsibility under the plan. (F, Mitigation Measure VIIb-5)
16. Prior to certificate of occupancy issuance, drills with EAP designated staff and the Fire Department shall be conducted on site to test and document implementation of the EAP. An additional drill including building occupants shall occur immediately following occupancy. Drills shall be conducted and documented monthly and on an annual basis with the Fire Department on site. (F, Mitigation Measure VIIb-6)

17. Both the Risk Assessment and Emergency Action Plan shall be reviewed, updated and submitted to the Fire Department for review and on an annual basis. This review shall incorporate any changing conditions within industry and chemical usage within the area. It shall also incorporate any engineering/administrative controls and technological advances available. Updated plans shall be reviewed and conducted by an individual meeting Fire Department requirement. (*F, Mitigation Measure VIIb-7*)

Planning Division = (P)

Engineering Division = (E)

Fire Department=(F)



# CITY OF MILPITAS

5.

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479  
GENERAL INFORMATION: 408-586-3000, TDD: 586-3013, [www.ci.milpitas.ca.go](http://www.ci.milpitas.ca.go)

February 17, 2005

File

Jim Todt  
4124 Creekpoint Court  
Danville, CA 94506

**Smash City Badminton Facility  
PJ # 2409**

Operation of a 24,000 square foot commercial badminton facility in an existing 48,000 square foot industrial building, located at 1191 Montague Expressway, Milpitas, CA 95035

Dear Mr. Todt:

The above referenced project was reviewed and approved by the Milpitas Planning Commission at its meeting of February 9, 2005. Enclosed for your information is a copy of the approved "Special Conditions/Notes to Applicant" for the project. Please read the conditions and notes carefully. **Unless otherwise specified, these items must be resolved prior to building permit issuance for your project.**

The next step in the process is to submit working drawings or construction plans to the Building Division for plan checking. Please contact that Division (586-3240) for further information. Listed below are the names and phone numbers of others involved in the building permit process. It is to your advantage to contact those persons in order to see what material(s), if any, they will need regarding your application. This could expedite the permit processing.

Building Division: Veronica Valenti - 586-3241; Engineering Division: Robert Wang - 586-3327;  
Fire Department: Albert Zamora - 586-3371

**Expiration of permit or approvals:**

Unless the approval is used or exercised, it will expire, without notice to you, eighteen (18) months after the date of approval, or by August 9, 2006. For the purpose of approval, an approval is "used" or "exercised" if the applicant obtains a building permit and completes a foundation, or dedicates any land or easement as required from the zoning action, or complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

A one-time 18-month time extension may be granted by the Planning Commission. It is valid only if approved before the pending expiration date. New conditions may be imposed on your permit through the review process for your extension of time for any permit. To obtain a time-extension, you must submit a request with appropriate fees to the Planning Division no later than June 9, 2006 to be scheduled for the Planning Commission meeting of August 23, 2006.

If you have any questions pertaining to this matter, please give me a call at (408) 586-3283. Thank you for participating in the City's planning review process.

Sincerely,

Kim Duncan  
Project Planner

cc: Fleming Business Park, LLC c/o WPI, 2101 Woodside Road, Woodside, CA 94062  
enc: Approved Special Conditions/Notes to Applicant

### **APPROVED SPECIAL CONDITIONS**

Operation of a 24, 000 square foot commercial badminton facility with ancillary fitness rooms and retail shop, with minor exterior building and site modification, located in the Heavy Industrial (M2) zoning district.

**Planning Commission Approval: February 9, 2005**

### **SPECIAL CONDITIONS**

1. This Use Permit No. UP20034-42 is for a 24,000 square foot commercial badminton facility to operate in an existing industrial building and includes an ancillary fitness area and retail shop in accordance with the plans approved on February 9, 2005 and as modified by the conditions within this approval. Any modification to the project as proposed will require a use permit amendment by the Planning Commission (P)
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18. Within six (6) months after issuance of the certificate of occupancy, the applicant shall submit a parking and circulation analysis performed by a traffic consultant to the Planning Division subject to review by the Planning Commission. The scope of the analysis shall be approved by the City prior to being conducted. If the Planning Commission review requires a public hearing, the applicant shall bear the costs of all materials and fees associated with the hearing. *(P)*

Planning Division = (P)

Engineering Division = (E)

Fire Department=(F)

Distribution:

Applicant & Owner

Albert Zamora, Fire Dept.

Keyvan Irannejad, Building Div.

Mehdi Khaila, Principal Civil Engineer

Greg Armendariz, City Eng., Eng. Div.

Ken Brown, Building Inspection

Jane Corpus, Finance

File